

Introduced \_\_\_\_\_  
Public Hearing \_\_\_\_\_  
Council Action \_\_\_\_\_  
Executive Action \_\_\_\_\_  
Effective Date \_\_\_\_\_

## County Council Of Howard County, Maryland

2005 Legislative Session

Legislative Day No. **8**

### Resolution No. 84-2005

Introduced by: The Chairman at the request of the County Executive

AN ACT approving, in accordance with Section 4.201 of the Howard County Code, the lease of certain real property located at West Friendship Park owned by Howard County and authorizing the County to enter into a five year lease, with four options to renew the term for five additional years each, with the Howard County Antique Farm Machinery Club, Inc.

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Introduced and read first time \_\_\_\_\_, 2005.

By order \_\_\_\_\_  
Sheila M. Tolliver, Administrator

Read for a second time at a public hearing on \_\_\_\_\_, 2005.

By order \_\_\_\_\_  
Sheila M. Tolliver, Administrator

This Resolution was read the third time and was Adopted \_\_, Adopted with amendments \_\_, Failed \_\_, Withdrawn \_\_, by the County Council on \_\_\_\_\_, 2005.

Certified By \_\_\_\_\_  
Sheila M. Tolliver, Administrator

NOTE: [[text in brackets]] indicates deletions from existing law; TEXT IN ALL CAPITALS indicates additions to existing law; Strike-out indicates material deleted by amendment; Underlining indicates material added by amendment.

1           **WHEREAS**, Section 4.201(a) of the Howard County Code provides that the County  
2 Council may, by Resolution, declare that certain county property is no longer needed for public  
3 purposes and that the property may be disposed of in accordance with County law; and  
4

5           **WHEREAS**, Howard County, Maryland (the “County”) is the fee simple owner of West  
6 Friendship Park consisting of several parcels of land located at 12985 Frederick Road in West  
7 Friendship and containing 349 acres (the “Park”), as shown on the diagram attached as Exhibit A;  
8 and  
9

10           **WHEREAS**, the County has designated 39.49 acres of the entire Park as “Area 1”, shown  
11 outlined in yellow on Exhibit A, and the Hebb House is situated within Area 1; and  
12

13           **WHEREAS**, the County desires to lease Area 1 (the “Leased Property”) in order to  
14 preserve, rehabilitate, operate, and maintain the Leased Property, including the Hebb House, and  
15 to establish and operate a living Farm Heritage Museum to further the agricultural heritage in the  
16 County; and  
17

18           **WHEREAS**, a formal Request for Proposal (“RFP No. 17-05”) was issued and the  
19 Howard County Antique Farm Machinery Club, Inc. (the “Tenant”) was the highest responsible  
20 bidder; and  
21

22           **WHEREAS**, the County and the Tenant now wish to enter into a Lease Agreement, a copy  
23 of which, without exhibits, is attached as Exhibit B, for the Leased Area for a term of 5 years,  
24 beginning on the date of execution of the Lease Agreement and terminating on June 30, 2010,  
25 subject to 4 consecutive options to renew for a term of 5 years each; and  
26

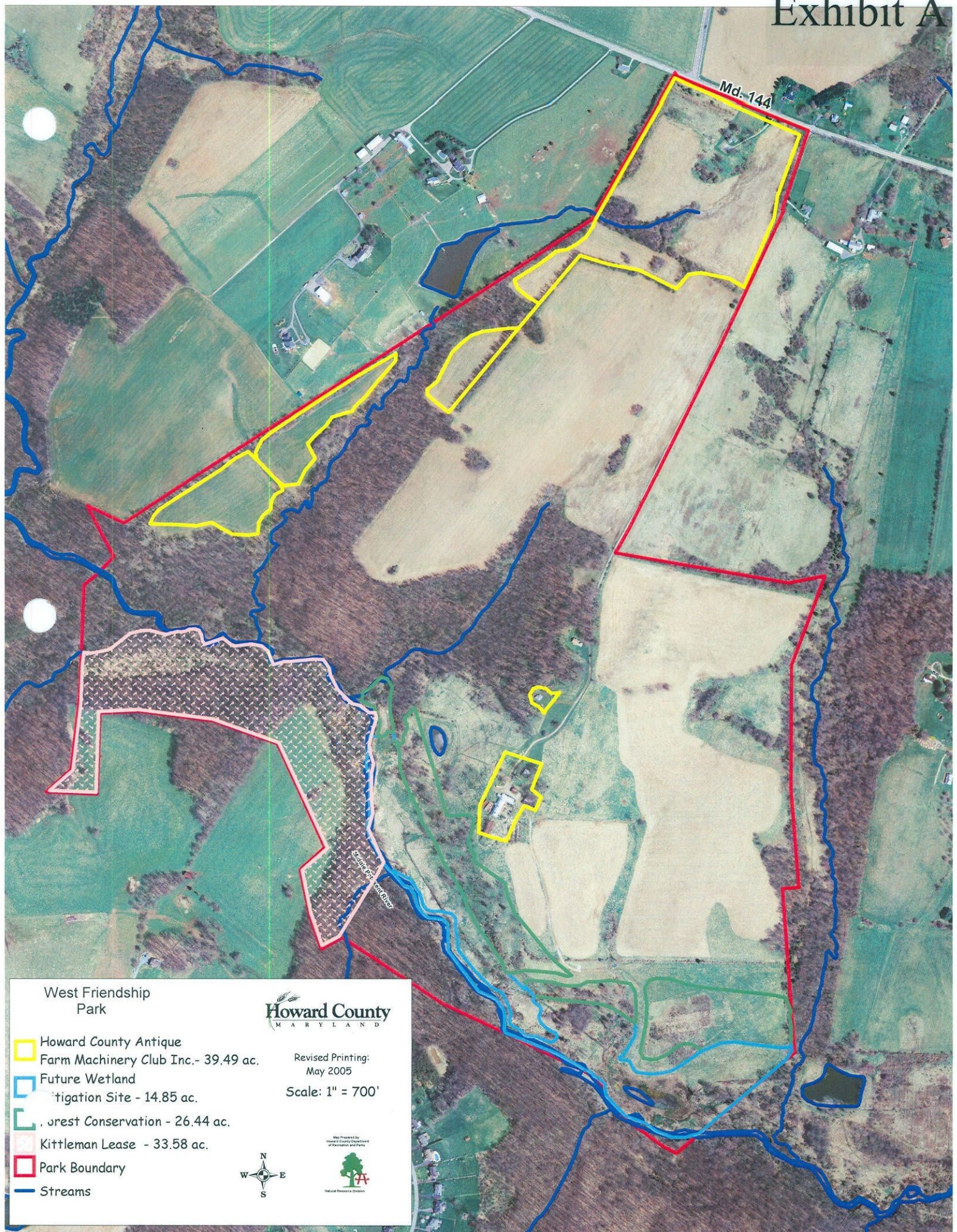
27           **WHEREAS**, the Tenant will pay the amount of \$900 per month or provide in-kind services  
28 in the equivalent amount, as determined by the County, during the original term and shall be subject  
29 to an annual increase during each renewal term; and

1           **WHEREAS**, the Director of the Department of Recreation and Parks has determined that  
2 the Tenant's use of the Leased Property is in the best interest of the County.

3  
4           **NOW, THEREFORE, BE IT RESOLVED**, by the County Council of Howard County,  
5 Maryland this \_\_\_\_day of \_\_\_\_\_, 2005, pursuant to Section 4.201(a) of the Howard County  
6 Code, that it declares that the Leased Property is not needed for public purposes for the proposed  
7 term of the Lease Agreement and that the best interest of the County will be served by allowing the  
8 County to dispose of the Leased Property by entering into the Lease Agreement, in substantially the  
9 same form of the Lease, attached as Exhibit B, with the Howard County Antique Farm Machinery  
10 Club for a term of 5 years, subject to renewals; and

11  
12           **BE IT FURTHER RESOLVED**, that the County Executive is hereby authorized to execute  
13 and deliver the Lease Agreement in the name and on behalf of the County in substantially the same  
14 form as the Lease Agreement, attached as Exhibit B.





## West Friendship Park

Howard County  
MARYLAND

- Howard County Antique Farm Machinery Club Inc.- 39.49 ac.
- Future Wetland
- Investigation Site - 14.85 ac.
- Forest Conservation - 26.44 ac.
- Kittleman Lease - 33.58 ac.
- Park Boundary
- Streams

Revised Printing:  
May 2005

Scale: 1" = 700'





## **LEASE AGREEMENT WEST FRIENDSHIP PARK**

**THIS LEASE AGREEMENT** (this "Agreement") entered into on the \_\_\_\_ day of \_\_\_\_\_, 2005 by and between **HOWARD COUNTY, MARYLAND**, a body corporate and politic (the "County") and **HOWARD COUNTY ANTIQUE FARM MACHINEARY CLUB, INC.**, a corporation formed under the laws of Maryland (the "Tenant").

**WHEREAS**, the County is the fee simple owner of West Friendship Park consisting of several parcels of land located at 12985 Frederick Road, West Friendship, Howard County, Maryland containing 349 acres of land (the "Park"). The County has designated 39.49 acres of the Park as Area 1. A two story farmhouse, known as the "Hebb House" is situated within Area 1.

**WHEREAS**, the County desires to lease Area I (the "Leased Property") to the Tenant and the Tenant is the successful respondent to the County's Request for Proposal Number 17-05 ("RFP") and desires to lease the Leased Property from the County and improve the Hebb House and operate the Leased Area as set forth in the RFP, a copy of the RFP is attached hereto as Exhibit C.

**NOW, THEREFORE**, in consideration of the mutual promises set forth, the County and the Tenant agree as follows:

### **1. TERM OF THE AGREEMENT**

A. Term and Renewal Options. The County agrees to lease to the Tenant and the Tenant agrees to lease from the County on the terms and conditions set forth herein, the Leased Area as described in Exhibit A, for the term of five (5) years, beginning on the execution of this Agreement and ending on June 30, 2010. Upon the expiration of the original term, the Tenant has four consecutive options to extend the term of the lease for an additional five (5) years each, with the written consent of the County and the rent for each extension may be increased by the County, in its sole discretion, up to four percent (4%) for each renewal term. The Tenant may request approval of its option to extend the term of this Agreement by giving the County written notice six months prior to the expiration of the term. The County shall set the renewal rent and confirm or deny the extension in writing.

B. Delivery upon Termination. Upon the termination of this Agreement, all improvements constructed on the Leased Property by the Tenant shall remain on the Leased Property for the benefit of the County and the Tenant shall remove all debris, equipment, furnishings, and supplies owned or placed on the Leased Property by the Tenant.

C. Early Termination by the County. The County reserves the right to terminate this Agreement if the County determines that such termination is in the best interest of the County, without showing cause, upon giving ninety (90) days written notice to the Tenant.

### **2. SERVICES RENDERED AND RENT**

A. Rent. Pursuant to the bid in the RFP, during the original term, the Tenant shall pay a minimum monthly sum of \_\_\_\_\_ Dollars, (\$\_\_\_\_\_.00). Each renewal term, if any, shall be subject to an annual increase, at the County's discretion, not to exceed four percent (4%). The rent shall be paid, on the first of each month, by check

B. Improvements to the Leased Property and the Hebb House. The Tenant agrees to preserve, rehabilitate, operate, and maintain the Hebb House and the Leased Premises substantially in conformance with the "Conceptual Plan" prepared by the Tenant showing the location of pathways, driveways, and parking areas and the floor plan for the Hebb House. The County may, in its sole discretion, credit the Rent set forth herein, with the value of the in-kind services which may be rendered by the Tenant from time to time.

C. Construction of Utilities. To the extent required, the Tenant shall, at its expense design and construct the water, septic systems, sewer lines, electric lines, gas lines, communication lines, and driveways serving the Leased Property (the "Utilities").

### **3. IMPROVEMENTS TO THE LEASED PROPERTY**

A. Contracts. All contracts entered into by the Tenant for the performance of work on or the delivery of material and supplies to the Leased Property shall be made in the Tenant's name and the Tenant shall have the contractor or supplier sign the "Notice of Work Performed on County Property" ("Notice") form attached and incorporated herein as Exhibit B. The Tenant shall keep the Notices on file and will provide copies to the County upon request.

B. Approval of Plans. Any improvements to the Leased Property shall be made pursuant to plans submitted to and approved by the County in accordance with the County's Subdivision and Land Development Regulations and other applicable federal, state, and county laws and regulations.

C. Permits. The Tenant shall obtain all permits, inspections and approvals required for the preservation, rehabilitation, improvement, maintenance and use of the Leased Property. The Tenant shall keep all such permits, inspections and approvals on file and shall provide copies to the County upon request. The Tenant shall comply with all applicable federal, state and local laws, regulations and ordinances regarding the preservation, rehabilitation, improvement, maintenance and use of the Leased Property, including compliance with environmental laws, regulations and ordinances. The Tenant shall follow all local zoning and building codes in the rehabilitation of the Hebb House.

D. Inspections. In addition to the inspections required pursuant to any County permit or license, the County reserves the right to inspect the Leased Property, from time to time, without notice. Safety compliance inspections by the County's Safety and Loss Control Coordinator and/or other authorized County representative may also be conducted at any time with no prior notice. If the work is not completed as approved, as determined by the County, corrective steps must be taken at the Tenant's expense, within a reasonable time limit set by the County. Tenant shall comply with all specific Howard County safety-related policies as requested by the Howard County Safety and Loss Control Coordinator. Serious safety violations as determined

by the County Safety and Loss Control Coordinator and/or other authorized County representative shall be corrected immediately or operations terminated until compliance with the specific standards are met. Failure to comply will result in a One Thousand Dollar (\$1,000.00) penalty per day. Repeated violations of the same type will result in termination of the Agreement.

E. Environmental and Existing Conditions. The Tenant accepts the Leased Property which includes the Hebb House in an "as-is" condition. The Tenant acknowledges that the preservation, rehabilitation, and maintenance of the Hebb House may result in exposure to harmful and toxic substances. The Tenant shall hold the County, its officers, agents, representatives, contractors of the Tenant, subcontractors, and any other third parties, harmless from any claims by itself, its invitees or licensees, for any damage to person or property resulting from any defect or condition in or about the Leased Property or other use of the Leased Property by the Tenant under this Agreement.

#### **4. USE OF THE LEASED PROPERTY**

A. Farm Heritage Museum and Farming. In accordance with the RFP, the Leased Property shall be utilized for the purpose of establishing and operating a living Farm Heritage Museum to interpret the agricultural heritage of Howard County, Maryland. The facility shall include static as well as working exhibits demonstrating farm practices over the centuries including planning and implementing annual public programs. Any farming activities shall be in accordance with best management practices and in accordance with a soil and water conservation plan approved by the Howard County Soil Conservation District. Tenant shall provide, at its expense, all supplies including seed, fertilizer, and lime, all equipment and labor for the planting and harvesting of such crops desired by Tenant. No disturbance is permitted within seventy-five (75) feet of any waterway, floodplain, or wetland. The Tenant shall submit a copy of the Maryland Nutrient Management Plan and the Soil and Water Conservation Plan within \_\_\_\_ days of the execution of this Agreement.

B. Hebb House. Upon completion of these preservation and rehabilitation of the Hebb House, the Tenant shall utilize the Hebb House only for the uses set forth in the RFP. Any proposed change in the use of the Hebb House must be submitted to the County, in writing, for the approval of the Director of the Howard County Department of Recreation and Parks.

B. Park Regulations. The Tenant shall open the Leased Property to the public and operate under the Howard County Department of Recreation and Parks regulations, Title 19, Howard County Code.

C. County's Right to Use and Develop the Leased Property. The Tenant acknowledges the County reserves the right to develop the Leased Property (upon termination of the Agreement) and the balance of the Park for recreational use at the County's expense. The Tenant also acknowledges that the County, its employees, agents, contractors, tenants, subtenants, licensees, and invitees (including but not limited to the general public) reserve the right to enter and use the roads, trails and paths, if any, which lie within the Leased Property for ingress and egress to other portions of the Park and in addition, the County reserves the right to reasonably relocate any such roads, trails or paths to another reasonable location on the Leased Property.

The Tenant further acknowledges that the County, its employees and agents reserve the right to enter the Leased Property at any time for purposes of fulfilling any duties or obligations it may have.

D. Compliance with Safety Codes. Safety compliance inspections by the County's Safety and Loss Control Coordinator and/or other authorized County representative may also be conducted at any time with no prior notice. If the work is not completed as approved, as determined by the County, corrective steps must be taken at the Tenant's expense within a reasonable time limit set by the County. Tenant shall comply with all specific Howard County safety-related policies as requested by the Howard County Safety and Loss Control Coordinator. Serious safety violations as determined by the County Safety and Loss Control Coordinator and/or other authorized County representative shall be corrected immediately or operations terminated until compliance with the specific standards are met. Failure to comply will result in a One Thousand Dollar (\$1,000.00) penalty per day. Repeated violations of the same type will result in termination of the Agreement.

E. Maintenance. The Tenant shall keep the Leased Property in a clean, sanitary, and esthetically pleasing manner which shall include, but not be limited to the following as needed from time to time: removal of ice and snow from driveways, sidewalks, and parking areas, landscaping, removing debris, leaves and the like, and mowing, trimming, and edging the grass. The Tenant shall perform all maintenance required for the Hebb House and the Utilities. The Tenant shall regularly mow the Leased Property and shall not permit the vegetation on the uncultivated or forested areas of the Leased Property to grow to a height of three inches. Any landscaped areas shall be regularly weeded, pruned and watered to maintain a good appearance.

## **5. INSURANCE AND INDEMNIFICATION**

A. Insurance. Throughout the term of this Agreement the Tenant shall obtain and maintain the types of insurance coverage specified in the RFP and such additional insurance or increase in coverage as may reasonable be required by the County from time to time. All terms, conditions and specifications of RFP regarding insurance, indemnification and safety requirements are hereby incorporated into and made part of this Agreement.

B. Indemnification. The Tenant shall indemnify, defend and hold harmless the County, its officials, agents, employees, successors and assigns against and with respect to any and all losses, damages, suits, claims, judgments and expenses whatever ("losses"), including without limitation costs of investigation, litigation and attorney's fees, arising directly or indirectly from performance by the Tenant, its officers, employees, agents, or subcontractors of this Agreement, or otherwise arising directly or indirectly from the work to be performed, except only when such losses are solely attributable to and proximately caused by the gross negligence or the willful, malicious, or wanton misconduct of the county or its officials, employees or agents. The foregoing shall apply without limitation, to losses of all types including destruction or degradation of the environment including land, air, water, wildlife or vegetation, and all clean-up costs, fines, penalties and other pollution-related items. This indemnification is not to be deemed as a waiver of any immunity that may exist in any action against Howard County, Maryland.



C. Insurance during Development. The Tenant acknowledges that it understands that the Hebb House and all improvements the Tenant makes to the Hebb House and Leased Property are, real property owned by the County. During the construction/rehabilitation phase, all structures, improvements and materials are covered under the Tenants' Builder's Risk Insurance Policy. After written acknowledgement by the County of acceptance of completion the Hebb House will be covered against loss by fire, or other hazard by commercial all-risk property insurance provided by the Tenant, naming Howard County, Maryland as loss payee. The County may, but is not required to, rebuild County-owned structures that are damaged or destroyed by fire or otherwise.

D. Safety. All terms, conditions and specifications of RFP regarding safety requirements are hereby incorporated into and made part of this Agreement.

## **6. DEFAULT AND REMEDIES**

A. Default Defined. Tenant shall be deemed to be in default under the terms of this Agreement upon the occurrence of any one of the following:

- (1) Tenant fails to construct the improvements to the Hebb House or Utilities in accordance with the approved plans.
- (2) Tenant fails to take appropriate action within thirty (30) days after written notification by the County of unsatisfactory progress in constructing the improvements to the Hebb House or Utilities and thereafter Tenant fails to maintain satisfactory progress.
- (3) Tenant fails to commence appropriate and effective corrective action within thirty (30) days after written notification by the County of non-compliance with specified engineering requirements or the approved plans during the construction of the improvements to the Hebb House or Utilities; and thereafter Tenant fails to diligently pursue and complete such corrective action.

B. Remedies. In the event of any default by Developer in its performance of this Agreement, the County shall have the right to enforce this Agreement, as provided by law, shall give Developer written notice of said default and shall have the following rights which may be exercised cumulatively:

- (1) Given notice of the default to the bonding company issuing the surety, if any, requiring the company to elect, in writing and within thirty (30) days, to either: (a) complete the improvements to the Hebb House and Utilities in accordance with the Approved Plans by the date determined by the County; or (b) indemnify the County for the costs, request the County to complete the improvements to the Hebb House and the Utilities and pay to the County within thirty (30) days after the County's demand therefore, the full costs incurred by the County to complete the improvements to the Hebb House and Utilities including but not limited to, the costs of constructing, engineering and inspecting the improvements to the Hebb House and the Utilities and the associated overhead and administrative costs.

(2) The right to enter upon the Leased Property to construct or complete the improvements to Hebb House or Utilities;

(3) The right to recover from the Developer all such additional costs as may be incurred by the County in order to complete the improvements to the Hebb House and Utilities in accordance with the approved plans.

## **9. MISCELLANEOUS**

A. Complete Understanding. All terms, conditions and requirements of the RFP are hereby incorporated into and made part of this Agreement. This Agreement and RFP, attached hereto as Exhibit C, incorporated herein contain, in writing, the full and complete understanding of the parties and the parties stipulate that there are no oral terms of this Agreement.

B. Amendments. This Agreement may be amended, but only in a writing signed by both the Tenant and the County.

C. Notice. Any notice, demand, consent, approval, request or document to be provided hereunder to a party hereto shall be in writing and shall be deemed to have been given and received: (a) on the date of delivery, if given by hand delivery and signed for by the recipient party, or (b) on the next business day following delivery to an overnight delivery or other messenger service, if given by an overnight delivery or other messenger delivery service and signed for or refused by the recipient party, or (c) if given by telecopy, when the telecopy is transmitted to compatible equipment in the possession of the recipient and confirmation of complete receipt is received by the sending party during normal business hours or on the next business day if not confirmed during normal business hours, or (d) five (5) business days after it is posted with the United States Postal Service, if given by certified mail, postage prepaid, return receipt requested. Any notice, demand, consent, approval, request or document to be provided hereunder shall be provided to the recipients at the addresses shown below or to such other recipients or addresses in the United States as the party changing its recipient or address may designate from time to time by notice to the other party:

If to the County:

Director, Howard County Department of Recreation and Parks  
7120 Oakland Mills Road  
Columbia, MD 21046  
Phone No. 410-313-4640  
Fax No. 410-313-4646  
Email: garthur@co.ho.md.us

If to the Tenant:

John W. Frank, President  
11785 Triadelphia Road  
Ellicott City, Maryland 21040  
Telephone No.: 410-531-2569  
Fax No.: 410-988-8165  
Email Address: JSRSTAR@comcast.net

D. Effective. This Agreement shall become effective upon and only upon its execution and delivery by each party hereto.

E. Maryland Law. This Agreement shall be interpreted according to the laws of the State of Maryland.

F. Exhibits. All appendices, exhibits, plats, and maps referred to herein are hereby incorporated by reference into this Agreement as if they were fully set forth herein.

G. No Transfer or Assignment. This Agreement may not be transferred, assigned or otherwise alienated by the Tenant. Any such transfer, assignment or alienation shall be considered null and void.

H. Force Majeure. In the event Tenant is delayed or prevented from commencing or completing construction pursuant to this Agreement within the schedule specified by reason of war, riot, insurrection, strikes, epidemics, earthquakes, tornadoes, floods, explosions, governmental restraints, restrictions or limitations, or the unavailability of materials due to strikes or for any other reasonable delays (hereinafter collectively referred to as "Force Majeure"), the performance required of Tenant shall be excused for as long as such event of Force Majeure shall continue and the period of time specified herein for performance by the Tenant shall be automatically extended by the number of days during which performance was precluded by the continuance of such event of Force Majeure.

I. Certificate of Occupancy. No certificate of occupancy for any improvements shown and described on the approved plans shall be issued without the prior approval by the County of the adequacy of access, drainage and other essential public improvements pertinent to the property being certified, and compliance with all other applicable requirements of the Howard County Building Code.

**IN WITNESS WHEREOF**, the County and the Tenant by their respective duly authorized representative, enter into this Agreement as of the date hereinabove.

WITNESS:

**HOWARD COUNTY ANTIQUE FARM  
MACHINERY CLUB, INC.**

\_\_\_\_\_  
(SEAL)

By:

John W. Frank, President

ATTEST:

**HOWARD COUNTY, MARYLAND**

\_\_\_\_\_  
Raquel Sanudo

(SEAL)

By:

James N. Robey

Chief Administrative Officer

County Executive

APPROVED: DEPARTMENT OF RECREATION  
AND PARKS

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Gary J. Arthur, Director

APPROVED FOR SUFFICIENCY OF FUNDS

APPROVED FOR FORM AND LEGAL  
SUFFICIENCY this \_\_\_\_\_ day of  
\_\_\_\_\_, 2005.

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Sharon Greisz, Director  
Department of Finance

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Barbara M. Cook, County Solicitor



**Exhibit A**  
Description of Leased Area

**Exhibit B**

**NOTICE OF WORK PERFORMED ON COUNTY PROPERTY**

WHEREAS, by the terms of a Agreement dated \_\_\_\_\_ and  
Between \_\_\_\_\_ and  
Howard County, Maryland for the construction, preservation and rehabilitation of the County's  
property known as West Friendship Park notice is hereby given and by this presence  
acknowledged that the property upon which the work is to be performed is real property owned  
by Howard County, Maryland, and thus, as a matter of state law, no mechanic's lien of any sort  
may attach to county-owned property; and

WHEREAS, \_\_\_\_\_  
(hereinafter "CONTRACTOR") and \_\_\_\_\_ (have)  
entered into an Agreement dated \_\_\_\_\_ to which this Notice of Work performed  
on County property is incorporated by reference, for a portion of the construction, preservation  
and rehabilitation work on the \_\_\_\_\_  
\_\_\_\_\_

NOW, THEREFORE, in order to meet the conditions imposed by the terms of the Agreement  
with the County, and thereby be able to enter into the construction, preservation and  
rehabilitation contract with \_\_\_\_\_  
\_\_\_\_\_

THE CONTRACTOR HEREBY EXPRESSLY ACKNOWLEDGES THAT HE HAS BEEN  
INFORMED THAT NO MECHANIC'S LIEN OF ANY SORT MAY ATTACH TO  
THE COUNTY'S REAL PROPERTY KNOWN AS WEST FRIENDSHIP PARK \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

UPON WHICH WORK IS PERFORMED BY THE CONTRACTOR UNDER HIS CONTRACT  
WITH \_\_\_\_\_

I/WE HAVE READ THE FOREGOING NOTICE OF WORK PERFORMED ON  
COUNTY PROPERTY AND FULLY UNDERSTAND IT.

Signed, sealed and delivered this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

WITNESS:

CONTRACTOR:

\_\_\_\_\_

\_\_\_\_\_

## **Exhibit C**

Proposal for West Friendship Park Specifications For Lease of Land/Museum Operation  
RFP Number 17-05